

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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KEVIN M. GIBBONS,

Petitioner,

v.

Case No. 08-11354

HUGH WOLFENBARGER,

Respondent.

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**ORDER GRANTING PETITIONER'S APPLICATION  
TO PROCEED *IN FORMA PAUPERIS* ON APPEAL**

Pending before the court is petitioner Kevin M. Gibbons' application to proceed *in forma pauperis* on appeal. The court dismissed Petitioner's habeas corpus petition for failure to comply with the statute of limitations. [Dkt. #20]. Although the court declined to issue Petitioner a motion for a certificate of appealability [Dkt. #25], the standard for issuing a certificate of appealability has a higher threshold than the *in forma pauperis* standard, which requires only that the appeal be taken in good faith. See 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(4)(B). Whether the court should have delayed or tolled the running of the statute of limitations is not a frivolous issue. Therefore, the court finds that Petitioner's appeal is taken in good faith. Accordingly,

IT IS ORDERED that Petitioner's application to proceed *in forma pauperis* on appeal [Dkt. #27] is GRANTED.

s/Robert H. Cleland  
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ROBERT H. CLELAND  
UNITED STATES DISTRICT JUDGE

Dated: August 6, 2009

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, August 6, 2009, by electronic and/or ordinary mail.

s/Lisa G. Wagner

Case Manager and Deputy Clerk  
(313) 234-5522